

BEFORE THE ARIZONA STATE BOARD
OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

In the Matter of)	
JAMES A. GULICK)	CONSENT AGREEMENT
)	AND ORDER NO.
License No. 1473)	
)	
)	
)	

I. CONSENT AGREEMENT

A complaint charging JAMES A. GULICK, D.O. (hereinafter Respondent) with violation of the Osteopathic Practice Act has been received by the Arizona State Board of Osteopathic Examiners in Medicine and Surgery (hereinafter Board). In the interest of a prompt and speedy settlement of the above captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1061(D), the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

A. Findings of Fact and Conclusions of Law

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

1. Findings of Fact

a. The Arizona Board of Osteopathic Examiners in Medicine and Surgery is the duly constituted authority for the regulation and control of the practice of osteopathic medicine in the State of Arizona.

b. Respondent is the holder of License No. 1473 for the practice of osteopathic medicine in the State of Arizona.

c. Respondent instructed his office personnel, 2 medical assistants, to dispense and administer controlled substances, give injections, change medications, and refill prescriptions without any physician on the premises during the period of June 24th through July 8th, 1985 while Respondent was on vacation.

d. During June and July of 1985, Respondent prescribed controlled substances for his office personnel and their families without actually examining them.

e. On July 12, 1985, as a result of the actions set forth in paragraphs c and d above, Respondent was placed on probation, subject to conditions, for a period of not less than two years.

f. On October 11, 1985, a Board review of Respondent's logs of prescribing and dispensing of Class III and IV controlled substances and pertinent patient charts revealed that Respondent had been prescribing these substances frequently and excessively.

g. On October 11, 1985, as a result of the actions set forth in paragraph f above, Respondent's probation order of July 12, 1985 was amended and Respondent was required to surrender his Drug Enforcement Administration Certificate to prescribe and dispense Class III and IV controlled substances and to dispose of such controlled substances as he may have had in his possession.

h. On or about March 9, 1987, prior to leaving Arizona for a week, Respondent gave a syringe containing stadol to his medical assistant with instructions to administer the stadol to the assistant's mother as needed for pain during the period he would be absent from Arizona.

i. On April 30, 1987, as a result of the action set forth in paragraph h above, Respondent's license was suspended for a period of 30 days beginning May 1, 1987 and Respondent was required to complete a Board approved 40 hour general practice refresher course and a 10 to 16 hour medical or general ethics course prior to August 7, 1987.

j. During the entire period of probation, Respondent provided physician supervision at a weight loss clinic. Under his supervision and at his direction, patients were placed on a weight loss regimen without an initial examination by Respondent or any other physician. Patients were administered I.M. injections of vitamins by unlicensed personnel or licensed personnel practicing outside the lawful scope of their practice, without supervision by Respondent or any other physician.

2. Conclusions of Law

a. The Board has jurisdiction over the subject matter hereof and over the Respondent pursuant to A.R.S. §§ 32-1803(A)(2) and 32-1855.

b. The conduct of Respondent described in the Findings of Fact constitutes unprofessional conduct pursuant to A.R.S. § 32-1854(18), (20), (21), and (27).

c. Grounds exist to take disciplinary action against Respondent pursuant to A.R.S. § 32-1855.

3. Recitals

1. Respondent admits the Findings of Fact and Conclusions of Law.

2. In lieu of a formal hearing on these issues, Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal or judicial review relating to the Order except in the limited circumstance(s) specified in Paragraph 17 of the Order.

3. Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

4. Respondent understands that those admissions are conclusive evidence of a prior violation of the Osteopathic Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

5. Respondent understands that he has the right to consult legal counsel prior to entering into this Consent Agreement and such consultation has been obtained.

6. Respondent understands that this Consent Agreement is effective upon its acceptance by the Board.



Attorney for Respondent

Dated: 10/12/87



Respondent

Dated: 10/12/87

[S E A L]

ARIZONA STATE BOARD OF
OSTEOPATHIC EXAMINERS

Mary L. Tucker
Secretary/Treasurer

Dated: 10/14/87

James J. Rogers DO
President/Vice President

Dated: 10-14-87

II. ORDER

In view of the above Findings of Fact, Conclusions of Law and the Consent of the Respondent, the Board hereby issues the following Order:

A. Respondent's admissions and consent to the terms and conditions of the Order and waiver of public hearing are accepted.

B. Respondent's license is placed on probation for at least twenty-four (24) months while he is engaged in practice or until such time as Respondent has engaged in practice in a probationary status for twenty-four (24) months. Probation is to commence the effective date of this Order and is subject to the following conditions:

1. Obey all Laws

Respondent shall obey all federal, state and local laws, and all rules governing the practice of osteopathy in this state.

2. Interview with the Board or its Designee

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

3. Tolling for Out-of-State Practice or Residents

Any out of state practice is not permitted to fulfill probation except as authorized by the Board.

4. Costs

Any and all costs involved in complying with the Order shall be borne by the Respondent

5. Release of Information Forms

Respondent shall immediately execute all release of information forms as may be required by the Board or its designee.

6. Change of Address or Employment

Respondent shall notify the Board, in writing, within one week of any change in employment or personal address.

7. Renewal of License

In the event the license is scheduled to expire during the period of probation, Respondent shall apply for renewal of the license, pay the applicable fee and otherwise maintain qualification to practice osteopathic medicine in Arizona.

8. Reevaluation of Conditions

In the event Respondent does not practice within two (2) years of the effective date of this Order, he must appear before the Board for reevaluation of the probationary conditions.

9. Refresher Courses

Respondent shall satisfactorily complete a Board approved 40 hour general practice refresher course and a 10 to

16 hour medical or general ethics course prior to January 1, 1988. Respondent shall provide written proof of attendance and successful completion of the required courses within thirty (30) days after completion.

10. Failure to Complete Courses

If Respondent fails to successfully complete the required course or program within the time limits prescribed, Respondent shall cease the practice of osteopathic medicine until the required courses have been completed.

11. Prescribing Restrictions

Respondent shall not prescribe Schedule III or IV controlled substances.

12. Chart Review

Respondent shall allow the Board or its designee to select at least 10 charts randomly each month for review of Respondent's compliance with the terms of probation.

13. Patient Assessment

Respondent shall not permit any patient to begin a regimen of treatment without an initial examination by a licensed physician.

14. Administration of Injections

Respondent shall permit I.M. injection of patients by licensed professional nurses only and shall permit such nurses to practice only within their lawful scope of practice.

15. Supervision of staff

Respondent shall provide the type and amount of staff supervision as is required by federal, state and local laws.

16. Completion of Probation

Upon successful completion of twenty-four months of probation, the Respondent shall request formal review by the Board and after formal review by the Board, Respondent's license may be fully restored by appropriate Board action if compliance with the Board order has been demonstrated by the Respondent.

17. Violation of Probation

If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and take further disciplinary action. If a complaint or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. The hearing shall be limited to the issue of whether Respondent has violated is probation.

18. Surrender of License

Respondent may, at any time this Order is in effect, voluntarily and irrevocably tender the license and whatever rights he may have under this Order with a request that it be revoked by the Board, and upon such action by the Board,

Respondent shall be relieved of any restrictions or conditions imposed under this Order.

[S E A L]

ARIZONA STATE BOARD OF OSTEOPATHIC
EXAMINERS IN MEDICINE AND SURGERY

Mary L. Tucker
Secretary/Treasurer

Date: 10/14/87

James S. Kozak D.O.
President/Vice President

Date: 10-14-87

cc: Charles Hover, III
Assistant Attorney General
and Attorney for the Board

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